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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/022,336	02/11/1998	WILLIAM E. M. JONES	21583-B-USA	5567

7590 07/26/2005

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EXAMINER

MAPLES, JOHN S

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/022,336

Applicant(s)

JONES ET AL.

Examiner

John S. Maples

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7,12,15,18,19,22-25,27,29,30,33,34,36,38,40,42,44,45 and 47-55 ~~is/are~~ are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7,12,15,18,19,22,23,25,27,29,30,36,38,40,42,44,45 and 47-55 ~~is/are~~ are rejected.
- 7) ☒ Claim(s) 24,33 and 34 ~~is/are~~ are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 15, 18-19, 22-23, 25, 40, 42, 44-45, 47-50, 54, 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Catylators Limited-UK 871,605 (CL) in view of Marui-US 3,832,238 (Marui). (New Rejection with regard to claims 54 and 55)

Reference is made to page 1 of CL, lines 16-63 along with page 3, lines 9-15 and Figures 1-5 of the same. The patent to CL teaches in Figure 1 a container 3 for a battery to be placed in the top of the battery made of ceramic, a flame arresting material, in which a catalyst material 1 is placed. It is noted that lines 61-63 in CL provide a coating on the outside of the container made of "a water-repellent substance such as a silicone". The patent to CL does not specifically teach PTFE on the outside of the container. Marui sets forth in column 5, lines 22-23 a container for a battery also

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having a container that houses a catalyst material, which container "may be made water repellant by treatment with silicone, Teflon or paraffin". It is inherent in the film of Marui for the thickness and the pore size to have been within the range set forth in claims 18 and 19 since such allow gases to pass there through but not water. Also, the size recited in claim 22 would also have been obvious so that the catalyst would function with maximum efficiency to rid the cell of unwanted gases. In any event, size is not a patentable feature-see In re Aller, 105 USPQ 233. With regard to claim 25, the PTFE in Marui would have had at least four layers, if merely on the atomic level. To have utilized the PTFE of Marui for the coating in CL would have been obvious to one of ordinary skill in this art at the time the invention was made so that the PTFE would keep moisture out of the catalyst container. In addition, CL provides for such material as outlined previously in this paragraph.

Applicant's arguments have all been considered but are not deemed persuasive. Applicant argues that Maru does not teach placement of a solid material on the container. The examiner respectfully disagrees. As applicant stated on the top of page 11 of the May 4, 2005 response, Maru sets forth "treatment with silicone, Teflon or paraffin". Applicant further states that one of the definitions of treatment as defined by Websters is coating. Thus the container Maru is coated by either silicone, Teflon or paraffin. Such is the placement of solid material on the catalyst container. The catalyst container is certainly not being coated with a liquid material. In addition, the layer on the container in Maru must be of a substantial thickness so that the same is water repellent as required by Maru.

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A further argument by applicant is that Maru does not set forth the container having a tape around it or that the container in Maru is wrapped. The treatment of the container in Maru by either silicone, Teflon or paraffin constitutes a tape. A film of this material is being applied to the outside of the container. Whether one calls this treatment a film, a tape or wrapped is the same. In any event, a layer of either silicone, Teflon or paraffin is being applied to the container and it must be in a film form or the same would not be water repellent as Maru requires the layer to be.

4. Claims 7, 12, 27, 29-30, 36, 38 and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over German-2904842 ('842) in view of both CL and Marui. (New Rejection)

The '842 patent discloses a lead acid battery having a pressure relief valve in the cover thereof having a catalyst container as part thereof. The container is secured to the pressure valve. [See Figures 2 and 3 of '842. The outer portion of ceramic frit 18 comprises the claimed cage. The only claimed feature not taught by '842 is the makeup of the catalyst container. With reference to section 3 of this action, the combination of CL and Marui set forth the claimed catalyst container having the PTFE on the outside thereof. To have included the catalyst container of CL and Marui formed in the top of the battery of '842 would have been obvious to one of ordinary skill in this art at the time the invention was made so that the battery would include the enhanced flame resistant container provided by the container of CL. This would protect the catalyst from flames within the battery cell.

All of applicant's arguments regarding the above rejection have been considered but are not deemed persuasive. The arguments relating to this rejection are the same as those applied to the rejection in section 3 of this action and so the traversal by the examiner in this section is the same against these claims and thus does not bear repeating.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John S. Maples whose telephone number is 571-272-1287. The examiner can normally be reached on Monday-Thursday from 6:15-3:45 and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John S. Maples
Primary Examiner
Art Unit 1745

JSM/7-23-2005